

REMARKS

The Final Office Action of October 12, 2006 has been carefully reviewed and this paper is Applicants' response thereto. Claims 80, 82-86 and 89-107 are pending. Claims 1-79 and 110-135 are withdrawn. Claims 81, 87-88 and 108-109 are cancelled. The Office Action rejected claims 80, 82, 83, 85, 86, 89, 103, 106 and 107 under 35 U.S.C. § 103(a) as being unpatentable over U.S Patent No. 6,129,685 to Howard, III ("Howard") in view of U.S. Patent No 5,964,796 to Imran (Imran). The Office Action rejected claims 84, 90 and 102 under 35 U.S.C. § 103(a) as being unpatentable over Howard in view of Imran in further view of U.S. Patent No. 5,711,316 to Elsberry *et al.* ("Elsberry"). The Office Action rejected claims 91-92, 95-101 and 104-105 under 35 U.S.C. § 103(a) as being unpatentable over Howard in view of Imran in further view of U.S. Patent No. 4,533,346 to Cosgrove, Jr., *et al.* (Cosgrove). The Office Action rejected claim 94 under 35 U.S.C. § 103(a) as being unpatentable over Howard in view of Imran and Cosgrove and in further view of U.S. Patent Re. No. 36,386 to Abbott *et al.* (Abbott).

In response, Applicants respectfully request reconsideration of the application in view of the above amendments and the following remarks.

Amendments to the Drawings

Figures 9 and 9A have been amended to show a label for curved passageway 916 so as to ensure antecedent basis for the use of the term curved passageway in the claims. Entry of this minor change is respectfully requested.

Amendments to the Specification

The specification has been amended to provide antecedent basis for the use of the term "curved passageway" in the claims. As this feature was present in the drawings as filed, no new matter was added. Entry of this minor change is respectfully requested.

Amendments to the Claims

Claims 80, 102 and 103 have been amended to recite the feature "a cannula... with a plurality of openings... at least one of the openings having a curved passageway so as to direct a catheter away from the central axis of the cannula along the predetermined trajectory, wherein, in

operation, slicing caused by installation of the catheter may be substantially avoided.” The curved passageway is shown in Figure 9 and the specification as filed, pg. 13, ln. 1-3 teaches the avoidance of slicing, thus no new matter has been added.

Rejection Under 35 U.S.C. § 103(a) – Howard & Imran

Independent claims 80, 102 and 103 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Howard in view of Imran. The remaining claims were rejected under 35 U.S.C. § 103(a) based on Howard and Imran, as well as additional references. Thus, the rejection of all the pending claims is based on Howard and Imran supporting a *prima facie* case of obviousness with respect to the independent claims 80, 102 and 103.

Looking at claim 80, the feature “at least one of the openings having a curved passageway so as to direct a catheter away from the central axis of the cannula along the predetermined trajectory, wherein, in operation, slicing caused by installation of the catheter may be substantially avoided” is recited. The Office Action admits that Howard fails to disclose the feature, thus Imran must disclose this feature in order to maintain the rejection. Applicants have reviewed the disclosure of Imran, however, and have been unable to locate any discussion of the above feature. Instead, Imran teaches that the catheter 13 is “provided in a desired pre-formed shaped which is assumed as soon as there is space for the distal extremity 38 to curve.” In other words, Imran teaches the use of preformed catheters that “slices” into position rather than the use of curved passageways that substantially eliminates slicing when providing catheters that extend away from a central axis of the cannula. Thus, the combination of Howard and Imran fails to disclose all the features of claim 80. Accordingly, the combination cannot be said to support a *prima facie* case of obviousness with respect to claim 80 and claim 80 is patentable over the references of record.

Claims 82-86 and 89-101 depend from independent claim 80. As no other reference of record has been suggested to correct the admitted deficiency in Howard, the combination of the references of record cannot be said to support a *prima facie* case with respect to claims 82-86 and 89-101. Therefore, claims 82-86 and 89-101 are patentable for at least the reasons claim 80 is patentable and for the additional features recited therein.

Independent claims 102 and 103 also recite the above discussed feature of claim 80. Thus, claims 102 and 103 are patentable over the references of record for at least the reasons that claim 80 is patentable and for the additional features recited therein.

Claims 104-107 depend from independent claim 103. Therefore, claims 104-107 are patentable over the references of record for at least the reasons discussed above with respect to claim 103 and for the additional features recited therein.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

CONCLUSION

All rejections having been addressed, the Applicant respectfully submits that the instant application is in condition for allowance, and earnestly solicits prompt notification of the same.

Respectfully submitted,
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